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STATE FOR G/TIP LBROWN, WHA/PPC MPUC CETTI, WHA/BSC ISHERIDAN

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TAGS: [KCRM](#) [PHUM](#) [KWMN](#) [ELAB](#) [GTIP](#) [CI](#)
SUBJECT: CHILE: SUBMISSION FOR SIXTH ANNUAL TIP REPORT
(PART 2 OF 2)

REF: A. STATE 3836
[1](#)B. 05 SANTIAGO 465
[1](#)C. 05 SANTIAGO 466

(U) Following text continues Chile's Trafficking in Persons report submission for 2006.

[1](#)5. (SBU) INVESTIGATION AND PROSECUTION OF TRAFFICKERS:
Information provided below is keyed to questions from ref A paragraph 23.

-- A. In Chile, trafficking is defined as a cross-border activity under Penal Code Law 19.927, Article 367. Other provisions of the Penal Code target TIP-related crimes within Chile. The laws currently in place that could be used to prosecute traffickers are those governing sexual crimes (rape, sexual abuse, and child pornography), criminal association and kidnapping. There are legal protections for potential victims that are focused on children, regardless of national origin. In addition, Chile joined international efforts to ban slavery when it ratified the International Convention on Civil and Political Rights in May 1972. Chile has also signed the Organization of American States' San Jose Pact. Article 6 of this agreement prohibits slavery and forced labor. Chilean laws, taken together, are adequate to cover the full scope of trafficking in persons. Chile ratified the Palermo Protocols in February 2005, and is drafting legislation which explicitly recognizes TIP as a crime.

-- B. Persons suspected of trafficking for sexual exploitation would be tried under one of the sexual crimes laws noted above, or another law, e.g., criminal association. Penalties for sexual crimes range from 5 to 20 years, as defined under Penal Code Law 19.927, Article 361. Under Chilean law, labor code violations are subject to civil penalties only. However, if victims were held in bondage or slavery-like conditions, traffickers could be prosecuted criminally for kidnapping with penalties ranging from one to 20 years as defined under Section Three of the Penal Code, or for 15 years to life if the crime included serious physical harm, sexual assault, or the death of the victim. Violation of a person's constitutional rights, specifically including the right to personal liberty, can be punished by 15-20 years in prison. Section Ten of the Criminal Code sets penalties for criminal association, which includes offenses defined in the Palermo Protocols, at five to 20 years imprisonment.

-- C. The penalties for rape and forcible sexual assault are five to 20 years as defined under Penal Code Law 19.927, Article 361. These penalties are comparable to those for sex trafficking.

-- D. Prostitution is legal in Chile. Prostitutes must be at least 18 years old, registered with the national health

service, and undergo monthly medical examinations. It is illegal to operate a brothel, to pander or procure. Inducing a minor to have sex in exchange for money or other favors is illegal. Punishment ranges from three to 20 years in prison and a USD 1,000 fine depending on the age of the minor. Procurement, pandering and operating brothels are prosecuted under the criminal association provisions of the Criminal Code, providing for penalties from five to 15 years. While enforcement and prosecution of CSEM is generally vigorous, Post has not been able to obtain information on prosecutions in adult prostitution cases.

-- E. Chile actively investigates cases of trafficking (see paragraph 3 subsection A above). Consolidated statistics on trafficking investigations, prosecutions, convictions and sentences are not available because neither the GOC nor the MP has identified TIP as a separate category of crime and systematically gathered information on it. This should not be taken as an indication the GOC does not effectively investigate, prosecute, and sanction trafficking cases. As noted above, Chilean authorities are aggressively pursuing a number of cross-border trafficking and child sexual exploitation cases. The National Prosecutor's Office (MP, Ministerio Publico) is attempting to compile interim statistics for release to Post, but this may take some time.

-- F. According to law enforcement officials, those involved in TIP in Chile are mostly individuals, and are not affiliated with organized criminal groups (child pornography rings) or members of local or international criminal organizations. Most of the known cases of commercial sexual exploitation of minors have involved small local groups or individuals acting alone. There have been isolated cases of illicit groups posing as employment brokers, but these also appear to be small operations. However, GOC officials are

concerned about the potential for organized criminal involvement in trafficking and are actively looking for those links in their investigations. There are no reports that profits from human trafficking in Chile are being funneled to terrorist organizations or other armed groups.

-- G. Chile actively investigates cases of trafficking (see paragraph 3 subsection A and paragraph 5 subsection E above). Under current law, the police may use electronic surveillance and undercover operations in investigations with permission from a judge. Mitigated punishment and immunity for cooperating suspects is available under the new judicial system implemented throughout Chile as of June 2005.

Recently enacted judicial reforms were partially designed to assist Chilean authorities in the prosecution of sexual offenders or traffickers. Previously, reports of abuse were handled by SENAME, which did not have the expertise or manpower to conduct efficient and professional investigations. The new reforms require regional and national prosecutors to investigate these cases and conduct criminal prosecutions.

In May 2005, the GOC sealed an accord with Save the Children to develop a missing persons database, which will interface with 21 other countries in the region. The database will track missing persons of all ages, and be useful for tracking reports of trafficking and child prostitution. The Interior Ministry, MP, SENAME, Carabineros (Chilean national police), and PICH are cooperating in this effort.

-- H. In response to heightened awareness of pedophilia cases, the GOC reorganized the Cybercrime and Sex Crimes Units within the PICH in 2003 and placed more officers in these units. They receive specialized training in investigating trafficking and commercial sexual exploitation cases. The National Police Academy plans to integrate TIP training in its curricula for all recruit classes from 2006 onward.

The MP has an International Cooperation Unit and a Sexual Crimes Unit, both focusing on TIP as well as other crimes.

The MP sponsored an international seminar on "Fighting Child Pornography and the Trafficking of Persons for the Sex Trade" in May 2005, which was the basis for the anti-TIP module to be taught at the National Police Academy. The MP has expressed interest in specific training for prosecutors to handle trafficking cases. To this end, the MP sent 20 regional prosecutors to a Post-sponsored seminar on TIP in [12004](#).

Directorate of Labor inspectors do not receive any training in detecting trafficking cases.

-- I. The 2005 arrest of two women involved in the "La Preferida" employment agency trafficking scheme was the result of a joint investigation by Peruvian and Chilean authorities. The GOC has worked with the Government of Japan to facilitate the return of Chilean women who had been trafficked there to work as prostitutes. The GOC also worked with the Government of Bolivia in 2005 to return four Bolivian minors brought to Chile to work as domestic servants.

-- J. Chile has bilateral extradition treaties with many countries, and does extradite individuals for criminal offenses on a case-by-case basis. The U.S.-Chilean extradition law is over 100 years old and extremely limited. Since 2001, several U.S. citizens wanted in the U.S. on pedophilia charges have been discovered in Chile. The lack of a functional extradition treaty had made returning them to the U.S. difficult. However, improved law enforcement agency cooperation and GOC flexibility in 2005 led to the extradition or expulsion from Chile to the U.S. of three individuals wanted by U.S. law enforcement on commercial sexual exploitation of minors (CSEM) charges. The U.S. and Chile are discussing the drafting of a new extradition treaty to facilitate law-enforcement cooperation and extraditions.

Post is not aware of any cases in which third countries have requested the extradition of individuals, whether Chilean or other, for trafficking offenses.

Chilean laws on CSEM apply extraterritorially -- Chilean nationals engaging in CSEM abroad can face criminal in Chile.

-- K. There is no evidence that the GOC tolerates trafficking. The GOC is increasingly focusing on TIP as a domestic problem and is active in regional anti-TIP efforts.

-- L. There are no GOC officials known to be involved in trafficking.

-- M. Chile does not have an identified child sex tourism problem. The GOC has prosecuted both domestic and foreign pedophiles in the past. Enhanced sanctions for pedophilia, child prostitution and solicitation, and pornography should make Chile a less attractive destination for these activities.

-- N. The GOC has ratified all relevant international instruments referring to trafficking in persons.

-- Chile signed and ratified ILO Convention 182 on July 17, [12000](#).

-- Chile signed and ratified ILO Conventions 29 and 105 on Forced or Compulsory Labor on May 31, 1993 and February 1, 1999, respectively.

-- Chile signed the Optional Protocol to the Convention on the Rights of the Child on June 28, 2000 and ratified it on November 6, 2002.

-- Chile signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons on August 8, 2002 and ratified it on February 16, 2005.

According to officials at the Ministry of Foreign Affairs, the GOC is reviewing Chile's legal framework to ensure that it is consistent with Chile's international commitments.

16. (SBU) PROTECTION AND ASSISTANCE TO VICTIMS: Information provided below is keyed to questions from ref A, paragraph 24.

-- A. The GOC provides assistance to trafficking victims and other victims of violent crime. The MP provides psychological and medical assistance to trafficking victims through SERNAM and its own staff, and through hospitals. Post does not have information on the number of victims currently being assisted.

The GOC provides relief from deportation to victims during legal proceedings against their traffickers. However, once a case is concluded, the victim must apply for legal migratory status (residency) and could face deportation or expulsion to their country of origin.

-- B. The GOC provides funding to NGOs for victim assistance programs. For example, nearly 80 percent of SENAME's budget goes to NGOs that operate shelters or other programs for at-risk children.

-- C. In the case of adult victims, the MP's victim assistance program manages the care of trafficking victims. This program employs professional psychologists and medical personnel to ensure victims receive appropriate support. Juvenile victims are assisted by SENAME and often referred to NGO programs that provide rehabilitation and other services. Juvenile courts can also direct the placement of a victim in a particular program.

-- D. Trafficking victims are generally not treated as criminals or prosecuted for crimes they committed as part of their trafficked condition (i.e. prostitution or immigration/work permit violations). Victims' names are generally not released, although they are recorded in public records. Victims, particularly juveniles, can be placed in protective custody. Adult victims are generally referred to a regional MP victim assistance program and provided shelter, food, and other services.

-- E. The MP encourages victims to assist in the investigation and prosecution of their traffickers. Many assistance programs for juvenile victims attempt to elicit information from victims for use in prosecutions. Under judicial reforms instituted in 2005, victims may file civil suits against traffickers for damages, and are not impeded from doing so. Cross-border trafficking victims are not allowed to work while the investigation and prosecution of their trafficker(s) is underway. Trafficking victims may be allowed to leave the country if not facing other charges.

-- F. The GOC has mechanisms to assist victims of trafficking and sexual exploitation. In recent cases of child prostitution and pedophilia, the victims were placed in protective custody with SENAME and given counseling. Where possible without placing the child at risk, SENAME tries to place juvenile victims in rehabilitation with family or in foster care. Juvenile victims are kept segregated from juvenile criminal offenders. The Centro de Transito y

Diagnostico (CTD -- Diagnostic and Transit Center) is a halfway house for minors with substance abuse problems and for those living on the streets. The minors are evaluated and then transferred to appropriate programs. SENAME supports 16 centers for physically and sexually abused children.

The MP has referred victims in its recent trafficking cases to its regional victim assistance units, where trained attorneys and psychologists work with victims. Independent lawyers (generally working in practices specializing in human rights or women's cases) are also assigned to protect the victim's interests. In the ongoing case of the Chinese victims, the MP also provided neutral interpreters to assist assigned attorneys. The PICH has a Centro de Atencion a Victimas de Atentados Sexuales (CAVAS; Center for Attention to the Victims of Sexual Abuse), which, along with 17 other

government centers, provides counseling and psychological assistance.

-- G. See paragraph 5 subsection H above. SENAME and SERNAME have permanent staff for assisting victims of sexual abuse and trafficking. In January 2006, nearly 100 local government officials in northern Chile attended G/TIP-funded seminars on recognizing TIP, prosecuting it using existing laws, and protecting victims. The MP sponsored a May 2005 "Fighting Child Pornography and the Trafficking of Persons for the Sex Trade" seminar and 20 regional prosecutors took part in an Embassy-sponsored program in 2004.

The members of the Victims Assistance unit in the Ministerio Publico (which has offices in all 12 of Chile's regions and the Santiago metropolitan area) are trained to work with victims of crime, as are officers within the PICH and Interpol who work with victims of sexual crime. Juvenile victims are referred to SENAME for psychological evaluation and assistance. JUNJI (the National Board of Child Care Centers) published a manual for all child care centers on how to recognize victims of sexual abuse. SERNAME provides training to law enforcement, health care and social service personnel on dealing with victims of domestic violence.

-- H. There is no information available about whether any government assistance was requested by, or provided to, repatriated Chilean trafficking victims.

-- I. The International Organization for Migration (IOM) started a project in 2004 for victims of juvenile commercial sexual exploitation in the port city of San Antonio, funded by a State Department PRM grant. The project provides counseling and rehabilitation to victims and at-risk youth. That project is currently being funded and operated through SENAME. IOM's office in Chile has also been working with the GOC on a review of Chile's legal framework and trafficking laws, and has proposed a baseline study of trafficking in Chile. ILO has a program in Chile to combat the worst forms of child labor. The following local NGOs work on women's issues, if not specifically on trafficking:

--(1) Raices (Roots - the premiere NGO working in trafficking issues - works with the GOC, UNICEF and UNESCO).

--(2) Solidaridad y Organizacion Social (Solidarity and Social Organization).

--(3) Servicio de Paz y Justicia (Service for Peace and Justice).

--(4) Red de Salud de las Mujeres Latinoamericanas y del Caribe (Latin American and Caribbean Women's Health Network).

--(5) Red Chilena Contra la Violencia Domestica y Sexual (Chilean Network against Domestic and Sexual Violence).

--(6) Movimiento Pro Emancipacion de la Mujer Chilena (Chilean Women's Pro-Emancipation Movement).

--(7) ISIS Internacional.

--(8) Instituto Chileno para Medicina Reproductiva (Chilean Institute for Reproductive Medicine).

--(9) Grupo Iniciativa Mujeres (Women's Initiative Group).

--(10) Foro Abierto de Salud y Derechos Sexuales y Reproductivos (Open Forum on Health, Reproductive and Sexual Rights).

--(11) Facultad Latinoamericana de Ciencias Sociales (Latin American Faculty of Social Sciences).

--(12) Educacion Popular en Salud (Popular Health Education).

--(13) Corporacion de la Salud y Politicas Sociales (Social Politics and Health Corporation).

--(14) Comité Latinoamericano y del Caribe para la Defensa de los Derechos de la Mujer (Latin American and Caribbean Committee for the Defense of Women's Rights).

--(15) Centro por la Justicia y el Derecho Internacional (Center for Justice and International Rights).

--(16) Centro de Salud Mental y Derechos Humanos (Center for Mental Health and Human Rights).

--(17) Centro de Estudios para el Desarrollo de la Mujer (Center for Women's Development Studies).

--(18) Centro de Accion y Estudios de Genero (Center for Action and Gender Studies).

--(19) Casa de la Mujer de Valparaiso (Valparaiso Women's Shelter).
--(20) Asociacion Nacional de Mujeres Rurales e Indigenas (National Association of Rural and Indigenous Women).
--(21) Asociacion de Proteccion de la Familia (Family Protection Association).
--(22) Asociacion Cristiana Femenina de Chile (Christian Women's Association of Chile).
--(23) Asociacion de Abogadas Matilde Troup (Matilde Troup Lawyers' Association).
--(24) Asociacion Nacional de Centros Femeninos (National Association of Women's Centers).
--(25) Casa de la Mujer Mapuche (Mapuche Women's Shelter).
--(26) Centro de Estudios, Asesoría y Capacitacion, Mujer y Trabajo (Center for Studies, Consulting and Training, Women and Work).
--(27) Colectivo Conspirando (Conspiracy Collective).
--(28) Federacion Mujeres de Negocios y Profesionales de Chile (Chilean Women's Professional and Business Federation).
--(29) B.P.W. International.
--(30) Asociacion Chilena para Naciones Unidas (Chilena United Nations Association).
--(31) Fundacion Margen (Margin Foundation)
--(32) Instituto Interamericano del Nino (Interamerican Institute of the Child).
--(33) Casa Alianza (Costa Rican-based NGO that works with ACHNU).
--(34) La Liga Chilena contra la Pedofilia (Chilean League against Pedophilia).
--(35) Fundacion Chile 21 (Chile Foundation 21).

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